

REMARKS

In view of the above amendments and following remarks, reconsideration of the objections and rejections contained in the Office Action of September 22, 2004 is respectfully requested.

It is initially noted that a number of minor editorial changes have been made to both the specification and abstract for the sake of form.

The Examiner's objections and rejections of the original claims are acknowledged. However, all of original claims 1-10 have been canceled and replaced with new claims 11-14. Each of the new claims has been drafted so as to fully comply with 35 U.S.C. §112, second paragraph. However, the Examiner's specific objections and rejections have been considered in the drafting of the new claims, and corresponding language has been avoided.

Claims 1-5 and 7-10 were rejected as being anticipated by Criniti et al., U.S. 6,730,845 (Criniti). However, while the Examiner is thanked for indicating the allowability of claim 6, it is submitted that all of new claims 11-14 clearly distinguish over Criniti.

Initially, it is noted that new independent claim 13 corresponds to prior claim 6 redrafted into independent form and to address the formal matters raised by the Examiner. As such, the substantive limitations being essentially the same, claim 13 should be in condition for allowance without more.

New independent claim 11 corresponds substantially to prior dependent claim 4, and is supported by the embodiment of Figs. 1 and 2, for example.

Noting Fig. 1, it may be seen that the cover 2 has an upper plate 6 with two side plates 7, one of which has a slit 13. A slit 15 is formed in a support plate 14 cut from the upper plate 6. The slits 13 and 15 can engage a back plate 5 of a case main body 1. The cover can thus be supported in the open position thereof and maintained in the upright position to be prevented from turning downward.

In citing the Criniti patent against claim 4, the Examiner referred to a slit groove 106, and stated that both of the slit grooves could mesh with the back plate of the case main body. However, in Criniti a hinge member 54 is engaged with cover engagement surface 106. Cover 20 slides upon hinge member 54 between hook rounded portion 104 and stop surface 108. However, it can be seen from Fig. 2 that portions 54 are provided on box side walls 14, and not rear wall 16. Thus, the first slit groove and the second slit groove of Criniti are not arranged to be positionable to mesh with the

back plate of the case main body in an open position of the cover to support and maintain the cover in an upright position.

Further, claim 11 requires the second slit groove to be formed in a support plate. The upper plate is required to have a cut therein at a side thereof of the other of the two side plates of the cover so as to form the support plate to extend downwardly. The cover 20 has no cut therein that forms a support plate which contains the slit groove. Rather, the slit groove is formed out of the side plates.

Further, note that the first and second slit grooves are required to open rearwardly. However, the grooves 106 of Criniti appear to open downwardly.

The above features of claim 11 clearly distinguish over Criniti. Additionally, however, the following is noted. The Examiner stated that the method of forming the device is not germane to the issue of patentability of the device itself. This is not entirely correct. The method of forming the device may be germane to patentability to the extent that it defines a structurally different product. The Examiner's position that the recitation of an element being capable of performing a function is not a positive limitation is traversed. The Examiner goes on to further state that it requires the ability to perform a function. However, the ability to perform a function is a limitation in a patentable sense. Note the limitation of claim 11 of requiring the first and second slit grooves to be arranged to be positionable to mesh with the back plate of the case main body in the open position.

Claim 5 depends from claim 4, and is more specifically directed to the aspects of the embodiment of Fig. 3. This claim distinguishes over Criniti for the same reasons as discussed above.

Claim 14 corresponds generally to prior claim 7. This claim is supported by the embodiments of Figs. 6-8, and also clearly distinguishes over Criniti.

Claim 7 requires that each of the side plates of the case main body has an elongated circular projection formed therein. (Note for example the elongated circular projection 21 of Fig. 6.) The Examiner cited a "non-circular" projection 70 in Fig. 3 of Criniti. Reference number 70 is a protrusion which spaces top section side wall 74 from box side wall 14 to form a gap 76 to receive the hinge end of the cover 20. However, it is not clear how the Examiner concludes that it is non-circular; note the circular indent illustrated below element number 54 on the inside of side wall 14 in Fig. 2 of Criniti. More to the point, this non-circular projection 70 is not fitted in an engagement

groove of a side plate of the cover as required by claim 14. The Examiner cited an engagement groove formed by cutting a slit on at least one of the side plates; apparently this is a reference to the grooves 106. However, these grooves 106 engage projections 54, and not the protrusions 70.

Additionally, it is noted that claim 14 requires each engagement groove to have a shape so that the cover can be opened to stand in a vertical condition and closed to lie in a horizontal condition and such that the cover is maintained upright by the engagement between each of the engagement grooves in the respective elongated circular projection and the vertical condition of the cover. Such structural requirements of the engagement groove and the elongated circular projection are clearly not found in Criniti.

Accordingly, it is respectfully submitted that all of the claims now presented clearly distinguish over the cited patent to Criniti. Indication of such is respectfully requested.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance, and the Examiner is requested to pass the case to issue. If the Examiner should have any comments or suggestions to help speed the prosecution of this application, the Examiner is requested to contact Applicant's undersigned representative.

Respectfully submitted,

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December 22, 2004